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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5747-N-01]

**Public Housing Assessment System (PHAS) Capital Fund Interim Scoring Notice:
Reinstitution of Five Points for Occupancy Sub-Indicator and Request for Comment**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice advises public housing agencies (PHAs), as well as members of the public, that HUD intends to reinstitute, temporarily, the award of 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator to all PHAs for the PHAS Capital Fund Program Indicator. This award of points is provided as regulatory relief from a non-statutory element of PHAS and intended to help lessen the impact of decreases in funding in recent appropriations acts. Adding automatic points for the occupancy sub-indicator will allow PHAs to focus on the statutory criteria for assessing performance under the Capital Fund Indicator, which is timely obligation of the Capital Funds and will in no way limit HUD's oversight and monitoring of PHAs.

HUD welcomes public comment on the scoring adjustment HUD intends to make as provided in this notice.

DATES: Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

Comment due date: **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD

Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 1-800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus, Real Estate Assessment Center (REAC), Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW, Suite 100, Washington, DC 20410, telephone 202-475-8830 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. Additional information is available from the REAC Internet site at <http://www.hud.gov/offices/reac/>.

SUPPLEMENTARY INFORMATION:

I. Background.

The purpose of PHAS is to provide a management tool for measuring the performance of a PHA in essential housing operations of projects, on a program-wide basis and individual project basis. PHAS measures a PHA's performance through four indicators: physical condition, financial condition, management operations and performance under the Capital Fund Program. Each of these indicators contains subindicators, and the scores for the subindicators are used to determine a single score for each of these PHAS indicators. The PHAS regulations, codified at 24 CFR part 902, were revised and updated by an interim rule published on February 23, 2011, at 76 FR 10136.

The Capital Fund Program Indicator consists of two subindicators. One subindicator required by statute focuses on the time taken by a PHA to obligate Capital Funds (see 42 U.S.C.

1437g(j)). The other subindicator, which is regulatory, focuses on a PHA's occupancy rate as of the end of a PHA's fiscal year. Each subindicator is worth up to 5 points for a total possible score of 10 points for the Capital Fund Program Indicator. (See 24 CFR 902.50.) In addition to measuring a PHA's occupancy rate under the Capital Fund Program Indicator, a PHA's occupancy rate is accounted for under another indicator, the management operations indicator, at 24 CFR 902.43(a)(1).

Scoring for this indicator as originally implemented is described in the Capital Fund Scoring Notice, also published on February 23, 2011, at 76 FR 10053. Under this indicator, PHAs can receive up to 5 points for the timeliness of fund obligation and up to 5 points for the occupancy rate. That scoring notice was modified to award an automatic 5 points for the occupancy sub-indicator of the Capital Fund by an interim notice for public comment, 77 FR 34399 (Monday, June 11, 2012), which was, after consideration of the public comments, made final at 78 FR 21623 (April 11, 2013). At that time, this action was done to give PHAs time to adjust their systems and procedures to the new scoring regime.

As a result of automatic across-the-board funding cuts required under the Budget Control Act of 2011, Pub. L. 112-15 (approved August 2, 2011), which became effect in January 2013, funding for public housing was significantly cut. HUD recognizes PHAs' resources are more severely strained and they need the flexibility to make choices about how Capital Funds are expended in accord with statutory requirements.

Given the current funding environment and the fact that the occupancy rate is also addressed under the management operations indicator, HUD believes that reinstating and extending the automatic 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator is appropriate, and will provide some relief to PHAs as they weigh options for

expenditure of limited Capital Funds and will result in no PHA losing any Capital Funds as the result of the non-statutory portion of the regulatory PHAS Capital Fund Program indicator.

II. Action

This notice advises that HUD will award an automatic 5 points for the Capital Fund occupancy sub-indicator for PHAs with fiscal years ending March 31, 2014, June 30, 2014, September 30, 2014, December 31, 2014, March 31, 2015, June 30, 2015, September 30, 2015, and December 31, 2015.

HUD welcomes public comment on this interim notice, and will consider all significant and relevant issues raised in issuing a final notice.

Date: December 6, 2013

Sandra B. Henriquez
Assistant Secretary for Public and Indian Housing

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